

Remarks

Reconsideration and further examination is respectfully requested in light of the remarks set forth below.

Claims 4, 6, and 8-10 are pending in this application. Claims 1-3, 5, and 7 previously have been cancelled.

The Examining Attorney rejected Claims 4, 6, and 8-10 on the basis of anticipation by Tremblay (U.S. Patent 5,533,594) under 35 U.S.C. 102(b). All rejections are traversed in this paper.

Response to Rejections: Section 102(b) Issues:

Basis: For purposes of the rejection, the Examiner appears to view Tremblay roller(s) 108 as “upper wheel(s)” within the Applicant’s claims, and Tremblay rollers 118, 120 as “furthest wheel(s)” or “lower wheel(s)” within the Applicant’s claims. The Examiner concludes: “The upper rollers act as a fulcrum for the platform when the device encounters inclines in the rail, as is shown with the device moving up a set of stairs. Weight will be transferred from the upper rollers to the lower rollers on an incline and the lower rollers will impart a greater force on the lower surface of the rail.”

Applicant respectfully contends that the Tremblay reference omits at least the following elements and/or limitations, and therefore cannot be considered to anticipate the claims.

Claim 4: Claim 4 requires that the load bearing platform be “rigidly affixed” to the wheel section. The examiner has characterized Tremblay base 36 as the load bearing platform

in the cited reference. Base 36, however, is connected to the carriage 35 and tracking body 66 (which holds the rollers 108, 118, and 120) by way of a pivoting linkage. See Tremblay column 5, lines 32-41. Accordingly, Tremblay does not teach a wheel section rigidly affixed to the load bearing platform as required in Claim 4 at part (b)(1). Moreover, Applicant's claim 4 requires that the furthest wheel be adapted to "transfer...an upward force to a lower side of the rail". By virtue of this pivotal linkage, rollers 118, 120 are not adapted for such a transfer of an upward force to the lower side of the rail, because the tracking body 66 would yield and freely rotate in response to such force, rather than transferring it. Tremblay supports this understanding, as the function of rollers 118, 120 is expressly identified as countering *lateral* forces. See Tremblay at column 4, lines 35-50 and 61-64.

Applicant respectfully requests withdrawal of the rejection of Claim 4.

Claim 6: Claim 6 requires upward force to be exerted against the rail by the lower wheel. Specifically, part (b)(2) requires that the lower wheel be positioned to "maintain upward force." As noted in the discussion of Claim 4, the tracking body 66 containing rollers 118, 120 is pivotally mounted, allowing it to yield. This pivotal connection thus prevents the rollers 118, 120 from being capable of "maintaining" an upward force.

Additionally, Claim 6 requires that the rail be "thicker in vertical measurement at the first inclined portion than it is at the less inclined portion." Tremblay, by contrast teaches the opposite, specifically providing that vertical height increases as the rail becomes horizontal. See Fig. 1 and column 3, lines 1-10.

An element or limitation of Claim 6 is therefore absent from Tremblay. Applicant respectfully requests withdrawal of the rejection of Claim 6.

Claims 8 & 9: Depending from Claim 6, these two claims should similarly be allowable.

Claim 10: Claim 10 requires that the orientation of an imaginary line between the axes of the upper wheel and the lower wheel approach perpendicular as the rail's slope increases. In contrast, Applicant points to Figure 4 of Tremblay, which shows that the pivotal connection of tracking body 66 permits the tracking body 66 (and thus the imaginary line between the axes of the wheels) to remain in a substantially constant relationship to the rail. Comparing the solid figure and the dotted-line rendition in Figure 4 of Tremblay, it will be seen that at the various slopes of the rail shown, the angle between the rail and the imaginary line does not change.

Moreover, the last clause of Claim 10 additionally specifies that the load bearing platform "is maintained in a fixed position relative to the line." By virtue of the pivotal connection of the tracking body 66, the orientation of the imaginary line and the support platform 36 will necessarily change as the slope changes, such as when the Tremblay device moves from the sloped portion of the rail to the horizontal portion at the top of the stairs in Figure 1. See also Figure 4 of Tremblay for an illustration of orientation of the tracking body 66 at various slopes of rail. Based on this understanding, if the device of Tremblay is placed at the horizontal run of track at the top of the stairs, the imaginary line will be parallel to the support platform; but when the device is at the middle of the sloped portion of the track, the imaginary line will be at an angle to the support platform.

Additionally, Claim 10 requires that the lower wheel be "maintained in contact" with a "downward facing surface" of the rail. Applicant respectfully contends that even if it can be

hypothesized that the rollers 118, 120 will at some point contact the lower surface of Tremblay's upper flange, there is nothing in Tremblay to suggest or inherently demand that such contact is maintained during operation.

Applicant respectfully seeks withdrawal of the rejections on the basis that for each claim, Tremblay omits at least one element or limitation.

Fees

An extension of time of three (3) months is hereby requested, and the fee for such extension will be paid by EFS Web credit card transaction (and, if such payment is insufficient or is not successful, any or all of the fee may be charged to Deposit Account 50-0954). If any other extension is required in order for this paper to be considered, such an extension is also hereby requested. This response therefore is timely. An Authorization to Charge Deposit Account 50-0954 is also enclosed to cover any deficiency. To the extent any petition is required in order for this response to be considered timely, or otherwise to maintain the pendency of this Application, this paper is deemed to include and to be such a petition.

Submission in Connection with Request for Continued Examination (RCE)

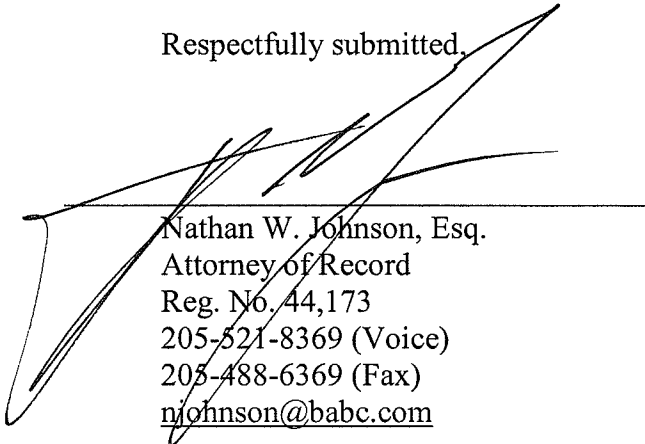
This paper is a submission in connection with a Request for Continued Examination, in connection with which the appropriate fees and papers are being submitted contemporaneously.

Conclusion

Applicant respectfully submits that in light of the foregoing, all rejections to the application should be withdrawn. Applicant has diligently sought to comply with all requirements and to respond to any arguments. The Application is believed to be in condition for allowance, and early approval is respectfully requested.

Respectfully submitted,

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